

MINUTES OF MEETING  
NORTH SPRINGS IMPROVEMENT DISTRICT

The regular meeting of the Board of Supervisors of the North Springs Improvement District was held Wednesday, November 7, 2012 at 5:14 p.m. in the district office, 9700 N.W. 52<sup>nd</sup> Street, Coral Springs, Florida.

Present and constituting a quorum were:

David Gray	President
Vincent Morretti	Secretary
Mark Capwell	Assistant Secretary

Also present were:

Doug Hyche	District Manager
Dennis Lyles	District Counsel
Rod Colon	Director of Operations
Brenda Schurz	District Clerk
Mimi Ortega	NSID
Nick Schooley	Drainage Supervisor
Donna Holiday	GMS-South Florida, LLC
Michael Joblove	Genovese, Joblove & Battista
Vandin Calitu	Board member left after tendering resignation

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Hyche called the meeting to order at 5:14 p.m.

**SECOND ORDER OF BUSINESS**

**Approval of the Minutes of the October 3, 2012 Meeting**

Mr. Hyche stated the next item is approval of the minutes of the October 3, 2012 meeting.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor the minutes of the October 3, 2012 meeting were approved as presented.
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**THIRD ORDER OF BUSINESS**

**Acceptance of Resignation Submitted by Mr. Vandin Calitu**

Mr. Calitu stated I have an opportunity for employment but I have a potential conflict of interest so I decided to resign from the board effective immediately. Thank you so much for all the assistance given to me by my fellow supervisors and staff.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Mr. Calitu's resignation was accepted.

Mr. Calitu left the meeting at this time.

**A. Consideration of Appointment of Individual to Fill Unexpired Term of Office**

Mr. Hyche stated the next item is consideration of appointment of individual to fill the unexpired term of office of Mr. Calitu. I would like to recommend Mr. Mark Capwell who was the fourth in line with that many proxies at the last election.

Mr. Gray asked do we have a reference sheet?

Mr. Colon stated Mr. Capwell is here and he can address the board.

Mr. Capwell stated I am an attorney and have been licensed since about 2002. I graduated from Nova Southeastern University, I have my own practice in the Coral Springs area and I own a condo in the Edgewater complex in the vicinity of University and Wiles Road. I used to live in Grand Isle and I tried to get appointed several years ago and I moved out of the district and then moved back and I ran for the board. I would like to get involved in civic services, I think this is something I can handle and my schedule is very flexible.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Mark Capwell was appointed to fill the unexpired term of office created by Mr. Calitu's resignation.

**B. Administration of Oath of Office**

Ms. Schurz being a notary public of the State of Florida administered the oath of office to Mr. Capwell.

**C. Election of Officers Resolution 2013-02**

Mr. Lyles stated normally when we have a new board member seated it is the custom and if this were a community development district it would be required by Florida Law that we hold new elections. We now have a new member of the board, we have a current serving president and vice president. We can take that up at this time, you could wait a month or so to see if you want to make any changes but at some point now or in the next month we would ask that you either re-elect the current slate or make whatever changes you think are appropriate given the new makeup of the board. It is strictly up to the board at this point to decide how to proceed in that regard.

Mr. Gray stated there are three positions.

Mr. Lyles stated we also have an assistant secretary position that could be filled and you could elect the current slate with the replacement of the assistant secretary slot at this time if you choose to do it that way.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor the current slate of officers was retained replacing the assistant secretary position with Mr. Capwell.

#### **FOURTH ORDER OF BUSINESS**

#### **Public Hearing to Amend the Water and Sewer Rates Resolution 2013-03**

Mr. Hyche stated item four is the public hearing to amend the water and sewer rates, Resolution 2013-03.

Mr. Hyche opened the public hearing and there being no public comment the public hearing was closed.

Mr. Lyles stated having no public present and no comment from the public it returns to the board for your discussion and action with respect to Resolution 2013-03, which is the new schedule of rates and charges for water and sewer service. Staff attached Schedule A, the actual breakdown of the rates as they currently exist and as they will be increased slightly from year to year over the next four years.

Mr. Colon stated basically these are pass through costs from Broward County on the wastewater.

Mr. Gray stated I have one question regarding the pass through cost. Obviously you have current pass through costs but have they already proposed the future increases or are we making assumptions on that?

Mr. Colon stated they notified staff that they were increasing rates so we took those into consideration. We would have to increase rates every time they increase our rates. They usually do it annually but the past few times they have done it we didn't increase our rates. We have absorbed the costs to a point where we can't absorb them anymore and have to raise rates to cover operating costs.

On MOTION by Mr. Gray seconded by Mr. Capwell with all in favor Resolution 2013-03 amending the water and sewer rates was approved.

#### **FIFTH ORDER OF BUSINESS**

#### **Public Hearing to Amend the Rental Fee Rates for Heron Bay Commons Resolution 2013-04**

Mr. Hyche stated item five is a public hearing to amend the rental fee rates for Heron Bay Commons, Resolution 2013-04.

Mr. Hyche opened the public hearing and there being no public comment the public hearing was closed and the item brought back to the board.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Resolution 2013-04 amending rental fee rates for the Heron Bay Commons Amenity facilities was approved.

#### **SIXTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2013-05 Amending the General Fund Budget for Fiscal Year 2012**

Mr. Hyche stated the next item is consideration of Resolution 2013-05 amending the general fund budget for fiscal year 2012.

Mr. Lyles stated this is a technicality in case you are wondering why this is being handled as an add-on item but at the end of every fiscal year once all the numbers are in local government entities typically will pass a final amended budget, which reflects the reality as opposed to the projections that were encountered during the previous fiscal year, which is now closed approximately one month ago. This does not authorize any additional expenditures or impose any additional burdens on the residents and landowners it merely conforms your final budget to your final actual expenditures incurred and completed during the previous fiscal year. It is

something the accountants want each local government to do and that is why it is in front of you at this time.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Resolution 2013-05 was approved.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Resolution 2013-06  
Amending the Heron Bay Commons Budget  
for Fiscal Year 2012**

Mr. Hyche stated the next item is consideration of Resolution 2013-06 amending the Heron Bay Commons budget for fiscal year 2012.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Resolution 2013-06 was approved.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Resolution 2013-07  
Amending the Parkland Isles Budget for  
Fiscal Year 2012**

Mr. Hyche stated the next item is consideration of Resolution 2013-07 amending the Parkland Isles budget for fiscal year 2012.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Resolution 2013-07 was approved.

**NINTH ORDER OF BUSINESS**

**Consideration of Resolution 2013-08  
Amending the Water and Sewer Budget for  
Fiscal Year 2012**

Mr. Hyche stated the next item is consideration of Resolution 2013-08 amending the water and sewer budget for fiscal year 2012.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Resolution 2013-08 was approved.

**TENTH ORDER OF BUSINESS**

**Consideration of Resolution 2013-09  
Indicating the District's Official Intent to  
Issue Tax-Exempt Bonds to Finance the  
Acquisition, Construction, Equipping and**

**Installation of Various Infrastructure Improvements, Public Improvements and Community Facilities and to Use a Portion of the Proceeds of Such Bonds to Reimburse Expenditures Paid or Incurred Prior to the Date of Issuance**

Mr. Hyche stated the next item is consideration of Resolution 2013-09 indicating the district's official intent to issue tax-exempt bonds to finance the acquisition, construction, equipping and installation of various infrastructure improvements, public improvements and community facilities and to use a portion of the proceeds of such bonds to reimburse expenditures paid or incurred prior to the date of issuance.

Mr. Lyles stated this resolution was prepared by our bond counsel. The reason this is before you today is that we need to adopt such a resolution to ensure that the district will be able to recoup funds expended from our current funds on hand toward capital projects where the project is going to be completed and the bonds are going to be issued at a future time. To make sure that we can reimburse our general operating fund for certain outlays that are being made currently bond counsel has recommended adopting this resolution so we can conform to IRS requirements in that regard.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor Resolution 2013-09 was approved.
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**ELEVENTH ORDER OF BUSINESS**

**Staff Reports**

**A. Manager**

**i. Facility Use Agreement with Tennis Pro for Heron Bay Commons**

Mr. Hyche stated the next item is facility use agreement with tennis pro for Heron Bay Commons for your consideration.

Mr. Gray asked this is for the additional pro and it is also going to go with the original pro as well?

Mr. Colon stated that is correct.

Mr. Lyles stated we also tweaked the payment provision so that is a change from the previous agreement. If you will look at the bottom of page 3 fee to district, it was a flat fee of \$1,000 and in some instances the \$1,000 flat fee proved to staff to be sufficient but if there were to be a significant month and the \$1,000 represented only a fraction of what was brought in the

tennis pros are agreeing to go up to 20% of their actual gross that they charge. That is going to be a financial positive impact to the district by having this sort of sliding scale mechanism so we have a floor of \$1,000 and 20% of the gross fees they are charging should it exceed that \$5,000 increment.

Mr. Gray stated if they are charging on a per hour basis and they are making more than \$1,000 per month on a 20% basis then they are using our courts more, so that is fair.

Mr. Lyles stated we think it is very fair. We think they were getting more of a bargain than they were entitled to but experience had to tell us how to handle this and I think staff has been monitoring the numbers and believes this is a more equitable way to handle this arrangement. Everything over \$5,000 had no positive impact for our cost of running the facility and building it and running it in the first place.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor the facility use agreement for Heron Bay Commons tennis facilities was approved.

**ii. Award of Contract to Repair/Replace Barb Wire Fencing at Stormwater Pump Stations 1 and 2**

Mr. Hyche stated the next item is award of contract to repair/replace barbwire fencing at stormwater pump stations 1 and 2.

Mr. Colon stated both of the general contractors that sent quotes in contacted one of the subs, which is Jeff the Fence Guy for quotes. Even though he is not a general contractor he has done most of the fencing around the district for other contractors. He is willing to provide all of the proper insurance and will bond it if he needs to. This is to repair some aging fences around the pump stations.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor the contract for the repair/replacement of the fencing at stormwater pump stations 1 and 2 was awarded to Jeff the Fence Guy in the lump sum amount of \$32,735.

Mr. Gray stated we can use him in the future for larger scale projects.

Mr. Colon stated we can it depends on his bonding amount. He has been a sub for general contractors but he is not a general contractor himself. It all depends on his bonding capability.

Mr. Gray asked but he does have bonding capability?

Mr. Colon responded for \$32,000 yes I don't know that we would actually require a bond for this amount because he wouldn't get paid until the job was done. I don't know if it is the board's intent to have him issue a bond. The safeguard is to not pay him until the job is complete.

**iii. Advance Funding Agreement with Lennar LLC**

Mr. Hyche stated the next item is an advance funding agreement with Lennar LLC.

Mr. Colon stated it is the exact same agreement we entered into with Standard Pacific this is for their portion of County Line Road force main that needs to be installed to service their property for wastewater services.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor the advance funding agreement with Lennar for their portion of County Line Road force main was approved.

**B. Attorney**

There not being any, the next item followed.

**C. Engineer**

**Project Status Report**

Mr. Hyche stated the engineer is not here and the project status report is in your package.

**TWELFTH ORDER OF BUSINESS**

**Approval of Financials and Check Registers**

Mr. Hyche stated the next item is approval of the financials and check registers.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor the financials and check registers were approved.



**Presentation by Mr. Joblove**

Mr. Joblove stated Rod and Doug have asked me to go over the presentation we made today with Broward County. We had our conflict assessment meeting over the issue of whether we have the right to terminate the Large User Wastewater Treatment Agreement as well as whether or not the Wedge property is within the purview of that agreement. Rod and Doug asked me to talk about some of the issues we talked about today.

Under the conflict resolution act we were required to meet today and do an assessment of the issues and see if we could reach resolution with the county. We weren't able to do so today. Under the statute we are required to meet again by the 26<sup>th</sup> of November, this time full meetings of you together with the county commissioners to discuss the issues once again in an attempt to try to resolve them. If we are unable to resolve them at that time the dispute goes to mediation where the mediator will attempt to bridge the issues and bring us to an agreement and if that fails then we have the right to sue in court.

The first question is, do we have the right to terminate the Large User Wastewater Agreement that was entered into in 1989 and that required the district to send your wastewater to the county for treatment for so long as the bonds that were used to finance the North District facilities were outstanding and we have had some difficulty tracing the history of the bonds, which the county claims were refinanced time and time again. At least initially in the meeting we called the county's attention to the fact that we have the right to terminate this agreement when the bonds that were issued in connection with the financing of the North District Regional Transmission Facilities have been satisfied. We took the view that they have been satisfied. We are also looking at whether the county has the legal right to continue to extend this agreement forever and ever and ever on the theory that those bonds have been refinanced. In the absence of establishing to us that the refinancing brought some direct benefit to us that was directly connected to our facilities as opposed to some tangential benefit to the system as a whole. Of course some benefit to the system as a whole that was only related to us in some sort of ancillary way but we acknowledged to them that issue is more complicated and we really wanted to focus on the Wedge property, which the county has more recently contended is subject to the Large User Agreement despite the fact that on previous occasions the county acknowledged that it wasn't and in reliance on that you committed to \$4 million in expenditures to build a reclamation facility.

We wanted to take them through what we considered to be the abundance of evidence that supports our view that the Wedge property is not subject to the wastewater agreement. The first thing we noted is email correspondence between Rod and Alan Garcia and Alan is the Director of the Water and Wastewater Division of Broward County. On September 10, 2010 Rod writes them and the context of this email was ongoing discussions by which we were seeking to terminate the Large User Agreement even to the degree of coming up with a price that we pay to the county to terminate our obligations under the agreement. What Rod said in his email to the county was essentially we don't need to focus on the Wedge property because the Wedge property is not subject to the Wastewater Agreement. Alan Garcia who is the Director of Water and Wastewater Services in Broward County confirmed what was our understanding of the agreement and that is he concurred the Wedge properties don't fall within the terms of the Large User Agreement. It was based on that common understanding that the district moved forward and committed to construct a separate facility for reclamation of wastewater and committed to \$4 million in expenditures. It is our position as a legal matter that the county is estopped, which means precluded essentially from denying that these properties don't fall under the Large User Agreement because someone in authority to make a statement about this made the statement, we reasonably relied on it and we made expenditures in reliance on that. There is good case law that supports that from the Florida Supreme Court as well as from the Fourth District Court of Appeal, which is the intermediate appellate court whose decisions are binding here in Broward County.

In addition to that we noted that the county staff has acknowledged in each of the plat approval reports that have come before the county commission in the last year that in fact the Wedge properties don't fall within the purview of the Wastewater Agreement. In March 2012 when the Triple H Ranch plat went before the county for approval county staff passed on and acknowledged this language in the footnotes to that approval process, it says, the North Springs Improvement District has provided documentation that the district will be constructing a wastewater reclamation facility that will be able to treat the wastewater generated from this plat. In assuring the county commission that there was sufficient wastewater facilities to service this property staff acknowledged that the Wedge property would be serviced by a separate plant, which we were building and that only on an interim basis would the county service that wastewater under the Large User Agreement.

Then again two months later in May the Bruschi property, which is the Standard Pacific property came before the county for plat approval and in the development review report county staff submitted to the commission language, which was identical with respect to this property that falls within the Wedge properties again acknowledging that a wastewater reclamation facility would be constructed by the North Springs Improvement District and that facility would provide for wastewater reclamation for this property.

Three months later in August the Dubuys plat that Lennar has purchased came before the county and once again county staff put identical language there again acknowledging that on parcels in the Wedge property your facility would provide wastewater reclamation to the property and therefore had the infrastructure necessary to proceed with development.

We also presented them with copies of questions and answers that Alan Garcia, whom I noted was head of the Water and Wastewater division of the county, provided to underwriting counsel as the county was getting ready to issue bonds for financing. We all know that it is important to be extremely honest in that process that the whole purpose of the process is to assess the risk of investors who might purchase those bonds and there are very strict laws that require strict honesty in that process. This was a meeting attended by Bertha Henry on telephone conference as well as Alan Garcia, Director of Water and Wastewater Services and we learned today that in fact the questions that were presented on behalf of the investors were submitted in advance so they certainly were not a surprise to the county and one of the questions from the underwriter's counsel was whether the utility received notice from any large users that the user would be reducing service provided by the county. The county acknowledged our understanding and they said yes they received notice from us that we wanted to leave the Large User Agreement but that they had turned us down on that request but he said we have not contested service to the Wedge property as long as it remains a separate system from their existing NSID Large User boundaries, again confirming what is the repeated statements that our separate facility would treat the Wedge properties and that we were not bound to provide those flows to the county under the Large User Agreement.

On July 9, 2012 Alan Garcia writes to Doug and he encloses the annual report of consulting engineers that is required under the Large User Agreement just an annual report of performance under the agreement, the quantities of flows that were serviced and as part of this final report, which was attached to the letter is a service map that shows this area of North

Broward and also indicates in this slanted manner the areas covered by the Large User Agreement notably the Wedge properties are not included in the slanted coverage that the county presents in its annual report.

On July 16, 2012 final site plan approval was provided for our facility itself and in passing on the approvals the WWS, Water and Wastewater engineering department, took a look at this and its comments were the plat is not within Broward County water and wastewater services area, that is our facility in the Wedge properties.

There have been repeated instances in which the county has acknowledged in an affirmative way that the Wedge property is not within the purview of the Large User Agreement despite their present position, which is exactly to the contrary. We also pointed out because the language they relied on is that section 6.2 of this agreement that provision says something along the lines that we the district will provide to the county all water flows that we treat from within our customer service area. We say that the parties by their conduct have acknowledged that all that speaks to is the customer service area within the original agreement when the agreement was signed in 1989 and that customer service area did not include the Wedge property and therefore, was never within the purview of the agreement. Whenever the parties, the county and the district, wanted to enlarge what they considered to be the service area we would enter amendments to the agreement to enlarge the service area. In 1998 a Second Amendment was entered to the agreement by which the parties expanded the customer service area. Again in 2002 the parties entered the Fourth Amendment to the Large User Wastewater Agreement again expanding the definition of customer service area. We think this is additional evidence that contradicts the county's position that any wastewater that we treat falls within the purview of the Large User Agreement even if it is beyond the geographic area of the customer service area, in other words for the Wedge properties to fall within the purview of the agreement the parties have acknowledged by their conduct in prior instances that they would have needed to have entered an amendment to bring the property within the purview of the agreement and we have certainly never done so here.

That is the presentation we made and afterwards in an attempt to see if we couldn't resolve it we were not successful. We have to move the process forward. Bertha Henry had questions about the economics of why we were building a facility and why we felt it made sense. We felt that some of her questions were a delay tactic. They did request that we extend the

statutory deadlines under the conflict resolution act to give them more time to study this but there have been numerous meetings over a long period of time and we supplied a lot of information over time both Rod and Dennis and his law firm supplied information so our position was we are willing to supply information, we are willing to talk to you but we are not willing to extend the statutory deadlines for this process to move forward. Under the statute we are supposed to meet with the county commission by November 26<sup>th</sup>, Ms. Henry said that the commission may need a couple days beyond that to get together with us and we said we would consider maybe extending that three or four days to as late as November 30<sup>th</sup> but we wouldn't extend it beyond that. Our idea is to keep the pressure going to keep this process moving all the while maybe having a side track of discussions if it is possible to resolve.

Mr. Colon stated the reason we wanted to present this tonight is because we meet the first Wednesday of the month. To keep our statutory deadlines we would need to meet with the county commission by November 26<sup>th</sup>, which is a Monday so we want you to basically know the information that we presented to the county today to let you know that we are not wasting your time and we have a very strong argument and we are right when it comes to the Wedge. We have invested a lot of time and energy and we did our due diligence extensively before we came to the board two years ago to purchase this property and move forward with this plan. As Michael pointed out there have been many occasions where they acknowledged that this piece of property is not subject to the Large User Agreement. No one ever wants to go to court so there are certain steps that we need to do and hopefully, we can resolve it without having to go to court. The next step would be to meet with the county commissioners in a joint meeting and that would have to take place 50 days from the date of Michael's letter to Bertha Henry, which is 30 days ago so 20 days from today would be somewhere around November 26<sup>th</sup>.

Mr. Lyles stated this is a lot of information put in front of you in a very short period of time. In case anybody isn't completely clear on who all the players are, Bertha Henry is the County Administrator she is the chief executive officer of the county and she is the one who if a decision can be made to resolve this at the staff level it is going to be at her level. This is not the first meeting on behalf of this district and this board that has occurred with Berth Henry. We tried to do it in a more informal way; we have laid these things out before in a more informal way. Today was the first step in terms of face-to-face contact under the statute so it was done today in a more formal way and not an informal way. The meeting that Michael referred to is a

joint meeting of the two boards, the board of county commissioners and this board of supervisors. While it requires that you be there and that these matters all be brought to the attention of the two sets of elected officials I want to add that it is not a test of your knowledge of the background and information. You are not going to be called upon to testify or to impart your understanding of the issues. If you have questions you will have a chance to ask them but I don't want you to have the idea that you need to be prepped as if this were a deposition or hearing where you are going to be the focus of an inquiry. That is not going to happen, the actual work will be at the staff level. You are there as an elected official and a decision maker. The hope of this legislation, which makes it mandatory that this meeting occur before we go to court is that regardless of what the staffs think the elected officials will be more mature, more clear headed and will come to terms. We will see if that occurs or if we even get to that point. I want to tell you two things, (1) it is serious and it is at a very high level and (2) the burden is on your staff not on you. I would encourage you to feel free to contact us between now and then one on one if you want to. We would have to call a special meeting with notice if we wanted to do that and have a one subject meeting. I don't think it is going to be necessary but any phone calls or information, we can sit down with you one on one or talk to you on the phone one on one including Michael if it would make you feel more comfortable, whatever you need we will provide to you. I think the most important thing is start blocking out that time, know that we are going to need you there as the county staff will need the county commission there and all this is required by Florida Law.

Mr. Gray stated you mentioned that they didn't side with you but who actually is the person who is pushing it that would therefore have to be the one that is making the decision? Somebody is pushing it and that is the person who ultimately would have to change their mind because it is not being randomly directed. Who is the one who actually makes the decision? Who is it that actually has to agree with us right now to make the decision?

Mr. Joblove responded that is Bertha Henry the county administrator.

Mr. Lyles stated you should understand that she has a department head by the name of Tom Hutka who is what I would consider kind of the driving force between this hard line they are taking who has sought to in essence overrule his immediately subordinate, Alan Garcia, or to say that he didn't have the authority to make the statements that he made at the time that he made them or in the alternative he didn't understand the question that Rod was asking him at the time

and answered a different question than what Rod had in his mind but under any event we can't let this happen. It is really being driven from the department level, the county administrator relies heavily on her department heads as she should and she is listening to that input.

Mr. Gray stated the board is over her obviously so you have the board then her then Tom Hutka and then Alan is under him.

Mr. Lyles stated in terms of chain of command that pretty much covers it.

Mr. Gray stated Alan is the one we were communicating with earlier.

Mr. Lyles stated because it is his responsibility.

Mr. Colon stated he is the Director of Water and Wastewater Services.

Mr. Gray stated as director he would have the authority to make decisions under his scope of authority.

Mr. Lyles stated as is the case with any government entity ultimate decisions are made generally when a vote is taken after an agenda is published and the elected officials get a look at it. However, in terms of representations that someone could rely on the equitable argument that it is not fair to tell us one thing and we go out and spend \$4 million and now you are telling us another thing because you changed your mind, he has the authority to make those kinds of statements that we have the right to rely upon and act upon so that is where his position, his title, his authority we think are significant in terms of this whole exercise.

Mr. Joblove stated another thing the lawyer said from the county attorney's office was Mr. Garcia doesn't have the authority to amend agreements; the Large User Agreement can only be amended in writing that both parties sign. Our position isn't that he was agreeing to an amendment or even that we needed an amendment our position was we all understood it to exclude the Wedge property and his email just confirmed that. It was certainly within his authority as you are pointing out, it is not as if the Director of Elections made this representation. It wouldn't be reasonable for us to rely on that, this is within his scope of responsibility.

Mr. Colon stated the due diligence report that was pointed out there were more people present on that conference than Mr. Alan Garcia and these are representations they are making under law to their counsel to issue new bonds, which they have a statutory obligation to tell the truth. I don't think they are happy that we have the document but it is a public record. We believe we have a very strong case and we want you to understand that we wouldn't fight this battle if we didn't think we were right and we made that very clear to the county administrator

that we are not giving up. We are right and we are fighting this battle because we have already spent taxpayer money, we moved in a direction based on certain promises that were made and here we are a year later they start to reverse their position and that is not acceptable. There are certain procedures we have to go through before we actually go to court. Hopefully we won't go to court, hopefully there are some very competent people on the county commission, which they are and when they see the same evidence because I'm sure none of them are familiar with what is going on when they see the abundance of evidence we hope they will say the Wedge just isn't worth it.

Mr. Joblove stated the other thing you should know is that Alan Garcia's boss was a party to those emails that went back and forth between Garcia and Rod and he never sent an email correcting Garcia that he misstated or anything like that.

Mr. Colon stated the other reason we had to get separate counsel is because our own attorney will more than likely be a witness in the case.

Mr. Gray stated on the board ultimately when we get to that level they would have the say but I assume they are supporting them for now based on whatever information they are currently being told.

Mr. Hyche stated I don't think this has been to the commission yet.

Mr. Lyles stated a couple of them are aware of it and some of the comments that were made during the platting process, I think one commissioner made a comment something like, by acting on this to allow this to go through we are not conceding any points on the Wedge property are we and the answer was no you are not, you are just acting on the plat, that is a separate matter. There is an awareness and if you will recall we had representatives who met individually with county commissioners to discuss the feasibility of NSID withdrawing from the Large User Agreement totally and that was a political process, that was a lobbying effort, I was not part of that, we separated who was doing what.

Mr. Colon stated it was the landowners who hired a lobbyist.

Mr. Lyles stated they were not hired by you but the issue was raised and we of course were in agreement with raising the issue to pursue that. The county commissioners by and large were not receptive. The reason I had a second meeting with the county legal staff was to tell them we told you we were going to attempt to do this and your bosses don't seem to want to go along with it voluntarily so we are not going to do it. We, of course, are going to continue to do



what we have all agreed can be done in the Wedge property and the response we got at that point in May 2012 was yes we can't agree with you withdrawing from the Large User Agreement under any scenario but staff is okay with the Wedge property being served by NSID so we continued on. Shortly thereafter Mr. Hutka got into the act, letters started being sent, positions start being changed and the whole process became directed toward dispute resolution rather than just getting some agreements signed and get on with everybody's business.

Mr. Gray stated I know we voted to get outside counsel so we as a board have already been involved in actual votes that are directed toward it. In their case because they are on the receiving end that really hasn't gotten to any type of proposal per se.

Mr. Lyles stated they don't know the detail that you know and they probably won't until the day that we get there.

Mr. Gray stated that will be more informational at that time, we are not being questioned it is more for us to gain the information to make decisions related to it since we represent the public as elected officials.

Mr. Lyles stated you by the same token are going to hear from their attorneys and you are going to see what their position is and what documents they say support that and their idea will be to convince you to call off the dogs. It is a two-way process very much. Then I think there will be an exchange that will occur at the elected official level, what do we do here to avoid litigation if we can, what are you willing to do, what are you going to do.

Mr. Gray stated thank you I appreciate that.

On MOTION by Mr. Gray seconded by Mr. Morretti with all in favor the meeting adjourned at 6:05 p.m.
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Vincent Morretti  
Secretary



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David Gray  
President